



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 12-3

May 30, 2012

Petition of the State 911 Department for Approval of Fiscal Year 2012 Expenditures

ORDER

I. INTRODUCTION AND PROCEDURAL HISTORY

In this *Order*, the Department of Telecommunications and Cable (“DTC”) hereby approves the State 911 Department’s (“911 Department”) fiscal year (“FY”) 2012 projected expenditures. *See* Petition of the State 911 Department for Approval of Fiscal Year 2012 Expenditures at 1 (“Petition”). The DTC additionally concludes that the Petition satisfies the requirement that the 911 Department report annually on the condition of the Enhanced 911¹ Fund (“Fund”), and offers further comment on the condition of the Fund.²

On March 1, 2012, the 911 Department, pursuant to G. L. c. 6A, § 18H(c), petitioned the DTC for approval of FY 2012 expenditures that exceed the total expenditures of the previous fiscal year by ten percent or more. Petition at 1. In response, the DTC declared its intention to investigate the 911 Department petition on March 20, 2012, and issued its first round of

¹ Enhanced 911 (“E911”) services provide residents of the Commonwealth with the ability to reach emergency services by dialing the digits “9-1-1”, and are provisioned pursuant to G. L. c. 6A, §§ 18A – 18I and G. L. c. 166, §§ 14A, 15E. E911 is distinguished from traditional 911 services in that E911 provides responders with both the telephone number used to place a 911 call, and information detailing the geographic origin of such call. *See* G. L. c. 6A, § 18A.

² The 911 Department has requested that the DTC consider its petition in this matter as satisfying the requirement that it report annually on the financial condition of the Enhanced 911 Fund. *See* Petition at n.1. Pursuant to G. L. c. 6A, § 18H(b), the 911 Department is required to report the financial condition of the Enhanced 911 Fund to the DTC annually. The DTC grants the 911 Department’s request and finds that the Petition satisfies the requirements of G. L. c. 6A, § 18H(b).

information requests. *See* Petition of the State 911 Department for Approval of Fiscal Year 2012 Expenditures, Docket Sheet at 1 (“Docket”). On March 30, 2012, the 911 Department filed its responses to the information requests. *See* Petition of the State 911 Department for Approval of Fiscal Year 2012 Expenditures, 911 Department Responses to DTC Information Requests DTC 1-1 thru 1-10 (cited as “DTC 1-1 thru 1-10”). On April 18, 2012, the DTC conducted a public hearing on this matter. No other parties intervened in this proceeding.

II. ANALYSIS AND FINDINGS

The DTC reviews 911 Department expenditures pursuant to G. L. c. 6A, §18H, which states, in relevant part, that “[t]he [911] department shall seek the approval of the department of telecommunications and cable for projected total expenditures that exceed total expenditures of the previous fiscal year by 10 per cent or more.” The DTC must review and issue a final decision on the 911 Department’s Petition within 90 days. G. L. c. 6A, §§ 18B(i)(4), 18H(c). If the DTC takes no action after 90 days, the 911 Department’s Petition is deemed approved. *Id.* Based on the following analysis and findings, the DTC approves the 911 Department projected FY 2012 expenditures.

When reviewing 911 Department petitions, the DTC looks to whether the allocation or expenditure at issue will be prudently incurred. *See Petition of the State 911 Dep’t for Approval of the Fiscal Year 2011 Dev. Grant Amount, and Fiscal Year 2010 Expenditures*, D.T.C. 10-1, *Order* at 5-6 (Apr. 5, 2010) (“2010 Order”) (approving an increase in the FY 2011 Development Grant Allocation under G. L. c. 6A, § 18B(i)(5)). In turn, when examining whether an expense is, or will be, prudently incurred, the DTC reviews whether circumstances, at the time the decision was made, adequately justified the reasonableness of the expense. *See Petition of the*

Statewide Emergency Telecomms. Bd. to establish a wireline surcharge, for the period Jan. 1, 2008 to June 30, 2008, to recover prudently incurred costs associated with the provision of wireline Enhanced 911 servs., relay servs. for TDD/TTY users, commc'ns equip. distribution for people with disabilities, & amplified handsets at pay tels., D.T.C. 07-7, Order at 7, 9, 19 (Feb. 8, 2008) ("2008 E911 Surcharge Order").

The DTC does not substitute its own judgment as to what is reasonably required to perform the 911 Department's statutory obligations for that of the 911 Department's, and has previously held that the 911 Department has the authority to determine which categories of equipment, training, and support expenditures it will submit to the DTC for approval. *See Investigation by the Dep't of Telecomms. & Energy to establish a surcharge to recover prudently incurred costs associated with the provision of wireline enhanced 911 servs., relay servs. for TDD/TTY users, commc'ns equip. distribution for people with disabilities, & amplified handsets at pay tels., D.T.E. 03-63-Phase I, Order at 16 (July 14, 2003) (finding that while the DTC may require the State Emergency Telecommunications Board ["SETB"]³ to "support the reasonableness of its proposed expenditures, the DTC lacks the jurisdiction to tell the SETB what categories of expenditure it is required to propose").* While such determinations reside with the 911 Department, such expenses must be prudently incurred. *See 2008 E911 Surcharge Order* at 8. Specifically, prudent expenses are those necessary to the 911 Department's provision of E911 services and disability access programs in the Commonwealth and, at the same time, maintain a stable surcharge level. *See 2008 E911 Surcharge Order* at 9; *Petition of*

³ SETB was the predecessor agency to the 911 Department, and was dissolved on February 1, 2009. Acts of 2008, c. 223.

the Statewide Emergency Telecomms. Bd. to establish a wireline surcharge, for the period Jan. 1, 2008 to June 30, 2008, to recover prudently incurred costs associated with the provision of wireline Enhanced 911 servs., relay servs. for TDD/TTY users, commc'ns equip. distribution for people with disabilities, & amplified handsets at pay tels., D.T.C. 07-7, Interim Order at 7 (Nov. 30, 2007) ("2007 Interim E911 Surcharge Order"); Investigation by the Dep't of Telecomms. & Energy to establish a permanent surcharge to recover prudently incurred costs associated with the provision of wireline Enhanced 911 servs., relay servs. for TDD/TTY users, commc'ns equip. distribution for people with disabilities, & amplified handsets at payphones, D.T.E. 06-4, Order at 27-28, 35 (Dec. 1, 2006) ("2006 E911 Surcharge Order").

As set forth in the *2010 Order*, the "DTC's authority in relation to the 911 Department's broad authority to determine the categories of expenditures which are required to fulfill its (*i.e.*, the 911 Department's) statutory responsibilities could only be viewed as conflicting, or at a minimum, limited, and we note the difficulty of reconciling the competing interests of ensuring modern, robust E911 services and disability access programs, and maintaining a stable surcharge." *2010 Order* at 7 (citing G. L. c. 6A, § 18B authorizing the 911 Department to disburse funds from the Fund for prudently-incurred expenses associated with the provisioning of E911 and disability access services). Accordingly, it is important to clarify the DTC's view of the relationship between the seemingly conflicting authority of the 911 Department and the DTC under G. L. c. 6A, §§ 18A-18I and G. L. c. 166, §§ 14A, 15E. *Id.* at 7-8. The DTC stated in the past that the 911 Department has authority to determine what is necessary for the provisioning of E911 service, and under the 2008 Act, the DTC similarly defers such judgment as it applies to disability access programs. *See 2008 E911 Surcharge Order* at 7. But, "necessity" cannot be

viewed in a vacuum. *2010 Order* at 8. It must be viewed in relation to cost, and to that extent, the DTC's mandate under the 2008 Act is to maintain a reasonable, stable surcharge in order to protect the interests of the payers of these services—telecommunications customers—and to serve as a counterweight to the 911 Department's authority. *See* G. L. c. 6A, §§ 18A(b), (c). The DTC plays a very important role in overseeing the costs of the E911 and disability access programs. *Id.*

A. 911 DEPARTMENT FY 2012 EXPENDITURES

The 911 Department reports \$74,831,881 in surcharge revenues for FY 2011, and requests DTC approval of projected expenditures of \$113,261,667 for FY 2012. *See* Petition at Exhibit A. The 911 Department's FY 2011 expenditures were \$59,752,655, therefore its FY 2012 request is an increase of 90 percent from the previous fiscal year.⁴ *Id.* at 10.

The 911 Department is required to seek DTC approval for projected total expenditures that exceed total expenditures of the previous year by ten percent or more. G. L. c. 6A, § 18H(c). To determine whether these expenses are prudently incurred, and thus, reasonable, the DTC assesses the amount of revenue collected via the surcharge, and then evaluates the prudence of 911 Department expenses. *See 2008 E911 Surcharge Order* at 8-9. Applying this standard, the 911 Department's projected expenditures are, or will be, prudently incurred for the following reasons.

⁴ The 911 Department's FY 2012 projection called for expenditures of \$101,590,647. *See* Petition at 2. However, several expenditures awarded for projects and various grants under the FY 2011 budget, were not actually expended in FY 2011. *Id.* The result is that FY 2011 expenditures were \$37.8 million lower than projected, and accounts for the bulk of the dramatic increase between FY 2011 actual expenditures and FY 2012 projected expenditures. *Id.* Conversely, when viewed in comparison to the 911 Department's FY 2011 projection, approved by the DTC in D.T.C. 11-2, the FY 2012 projection represents a roughly 14 percent increase. *Id.*

(1) Surcharge Revenues

Fund revenues are generated from a surcharge “imposed on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system.” G. L. c. 6A, § 18H(a). This surcharge is the sole source of E911 and disability access funding in Massachusetts.⁵ *2010 Order* at 11. The Fund’s net revenue is derived by multiplying the surcharge by the number of access lines and subtracting one percent for administrative fees and two percent for uncollectible revenue. *Id.* The 911 Department’s revenue projections for FY 2012 rely on three assumptions: (1) a 0.26 percent interest rate; (2) projected subscriber counts; and (3) a three percent reduction comprised of a two percent uncollectable revenue rate and a one percent administrative fee. *See* Addendum to Exhibit B (“Add.”) at 1. The reasonableness of each assumption is examined in turn.

(a) Interest Rate

The 911 Department earns interest on the Fund by investing a portion of the total fund balance. *Add.* at 1. The interest earned each month is then reinvested, thereby increasing the invested funds. *Id.* The 911 Department projects the interest earned on the invested funds in FY 2012 to be \$123,011, using a 0.26 percent interest rate. *Id.* at 2. The Treasurer of the Commonwealth (“Treasurer”) manages the Fund. *See* G. L. c. 29, § 23 (charging the Treasurer with managing “all cash, funds, or investments under the control or jurisdiction of any state agency”). As of January 31, 2012, the Treasurer reports that the average interest rate for the Massachusetts Municipal Depository Trust for 2012 is 0.26 percent. *Add.* at 2. Therefore, the

⁵ Portions of E911 and disability access programs receive additional funds from matching federal grant programs.

DTC finds that 0.26 percent is a reasonable assumption for purposes of projecting interest earned on the invested funds for FY 2012.

(b) Access Line Counts

To calculate net revenue, the 911 Department multiplies the average number of monthly subscribers by the surcharge amount, thereby producing the projected monthly revenue. Add. at 2. The averaged monthly revenue is reduced by three percent to account for a one percent carrier administrative fee and two percent uncollectible revenue, and then multiplied by twelve to get the annual projected revenue for the fiscal year. *Id.*

In the *2010 Order*, the DTC noted that “it would be prudent for the 911 Department to closely monitor the changes in subscriber counts for each type of access line contributing to the Fund to reflect the realities of evolving competition in the voice market.” *2010 Order* at 13. The DTC notes that the 911 Department has since been providing revenue breakdowns by carrier type, and careful inspection of the FY 2012 projection reveals the importance of such monitoring. Inspection of revenue by carrier type indicates that a large number of wireline subscribers are now reporting as voice over internet protocol (“VoIP”) subscribers. Indeed, as shown below, the monthly average subscribers for VoIP and wireline service are dramatically changed.

	Average on 5/31/11 <i>See DTC 1-8.</i>	Average on 12/31/11 <i>See Add. at 1.</i>
Wireline	2,877,583	1,943,426
VoIP	90,549	951,925

As the 911 Department correctly notes “[t]hese projections reflect the trend in subscribers transitioning from traditional wireline service to other available service providers, such as wireless and VoIP.” *See* DTC 1-8. The DTC is satisfied with the 911 Department’s tracking of subscriber counts, and finds that this is a reasonable method of calculating the projected revenue for FY 2012. However, the DTC believes that increased carrier classification could reveal further trends in transitioning subscribership, and enable the 911 Department to more accurately model revenue projections in the future. Therefore, the DTC asks the 911 Department to continue closely monitoring revenue by subscriber type, and to consider further development of carrier classifications such as nomadic and fixed VoIP carrier types.

(c) Uncollectable Revenue

The 911 Department employs a two percent uncollectable revenue rate to reduce the total fund revenue projections. Add. at 1. DTC regulations permit a reduction in total surcharge revenues to reflect uncollected revenues. *See* 220 C.M.R. § 16.03 (8) (telecommunications companies are only “obligated to remit the actual amount collected from subscribers”). The DTC finds that the 911 Department’s use of a two percent uncollectable revenue rate is reasonable, as discussed below.

In 2008 the DTC approved a two percent uncollectable revenue rate, based upon Verizon New England Inc.’s (“Verizon”) reported uncollectable revenue rate of 2.1 percent across residential and business wireline accounts. *2008 E911 Surcharge Order* at 12. The DTC found that applying the two percent uncollectable rate to reduce the 911 Department’s net revenue was “appropriate because Verizon is the dominant local exchange carrier in the Commonwealth.” *Id.*

In its *2010 Order*, the DTC noted that due to the increase in non-wireline access lines subject to the surcharge, it would be appropriate to consider adjusting this methodology to account for uncollectable revenue rates by access line type when calculating uncollectable revenues in the future. *2010 Order* at 14. This observation was reinforced when the DTC approved the 911 Department expenditures for FY 2011 stating, “[a]lthough the data presented is not sufficient to determine a meaningful estimate for what the uncollectible rate should be, it does indicate the possibility of a disparity of uncollectible rates between carrier types.” *See Petition of the State 911 Dep’t for Approval of Fiscal Year 2012 Incentive Grant Reg’l Emergency Commc’ns Ctr. Category Amount; State 911 Dep’t Emergency Med. Dispatch Grant; & Fiscal Year 2011 Expenditures*, Order at 16 (“*2011 Order*”). As the DTC declared in its *2011 Order*, “carriers have a statutory obligation under G. L. c. 6A § 18(H)(f) to report, on a monthly basis, their total uncollected surcharge revenues.” *Id.*

Given the trend in subscribership away from wireline carriers, the DTC believes that collection of this data going forward is increasingly important. Accordingly, the DTC encourages the 911 Department to amend its monthly reporting forms to collect such data. Until such a time as sufficient data regarding uncollectible surcharge revenues rates is available to the 911 Department, the DTC finds the continued use of a two percent uncollectible rate to be reasonable.

(2) 911 Department Expenditures

The DTC next analyzes the 911 Department’s expenditures, and determines that the projected expenses are necessary to the provisioning of E911 services and disability access programs, and are, or will be, prudently incurred for FY 2012. The 911 Department’s projected

expenses for FY 2012 are divided into four cost categories: (a) Administration; (b) Programs; (c) Enhanced 911; and (d) Disability Access Programs. *See* Exhibit A. The DTC analyzes the prudence of expenditures in each cost category in greater detail below.

(a) Administration

The DTC determines that the 911 Department's projected administration expenses of \$5,220,507 for FY 2012 are, or will be prudently incurred. The 911 Department's administration expenses include salary costs, agency expenses, and capital project costs. *See* Petition at 3.

Salary costs for FY 2012 are projected at \$3,367,586, compared to \$3,309,674 in actual; costs for FY 2011. The 911 Department states that its projections for salary expenses reflect contractual step increases and cost of living requirements negotiated by the National Association of Government Employees union and the Commonwealth. *Id.* The DTC finds that the increase in salary expenses is due to the 911 Department's fulfillment of its statutory responsibilities and contractual employment obligations arising from those responsibilities. The projected FY 2012 salary expenses of \$3,367,586 are therefore necessary to the provisioning of E911 and disability access programs, and are, or will be, prudently incurred.

Agency expenses, the second item within the administration expenses category, are comprised of: (1) Employee Reimbursements; (2) Administrative Expenses; (3) Operational Supplies; (4) Utilities/Space Rental; (5) Consultant Services; (6) Operational Services; (7) Equipment Purchase; (8) Lease, Maintenance, Repair Services; (9) Building Maintenance, Repairs; and (10) IT services. *See* Exhibit A. The projected total agency expenses for FY 2012 is \$854,896, roughly a 20 percent increase from the FY 2011 projection of \$713,386. *See* Exhibit A. The DTC notes that despite a transfer of ownership, the 911 Department has secured

an extension to its lease of its current facilities into FY 2015. *See* DTC 1-2. Given that the lease extension will allow the 911 Department to manage its expenses over several years, the DTC finds that the FY 2012 agency expenses are, or will be, prudently incurred.

Capital projects is the final item within the administration expenses category, and is projected to be \$998,025 for FY 2012. *See* Exhibit A. This represents a marked decrease in projected funding levels which rose to \$3,176,136 in FY 2011. *Id.* This amount reflects the 911 Department's obligation to match a federal grant money it received to migrate state PSAPs to an internet protocol-enabled emergency network. *See* Petition at 4. While the 911 Department continues to fund this long-approved matching grant, the DTC notes that no new capital expenditure funding is requested for FY 2012. *Id.* The DTC determines that the 911 Department's FY 2012 capital expenses are necessary to the provisioning of E911 and disability access programs, and therefore are, or will be, prudently incurred.

(b) Programs

The second category of expenses is programs, comprising various training, education, incentive, and support grants administered by the 911 Department. Petition at 4. The 911 Department FY 2012 projection seeks approval for \$66,004,734, an increase from its FY 2011 projection of \$55,702,967. *See* Exhibit A. Though a significant increase of over \$10.3 million, it is largely a result of PSAP Regional Development Grant funding which has been approved, but not expended, in the prior fiscal year. As a result, the Roll Over account has increased from \$14,137,998 in FY 2011 to \$23,692,352 for FY 2012. *Id.* Moreover, the Training Grant, Incentive Grant, and Wireless State PSAP Grant all receive modest funding increases. *Id.* These increases are mandated by a statutory funding mechanism which bases annual support on prior

year revenues. *See* G. L. c. 6A, §§18B(i)(1)-(4). Because the FY 2012 Program expenditures are based on statutory funding obligations, and much of the expenditure is based on previously approved spending, the DTC finds the FY 2012 Program expenses are, or will be, prudently incurred.

(c) Enhanced 911

The third category of expenses, Enhanced 911 (“E911”), captures expenditures necessary to support E911 service, and to support the implementation of Next Generation 911 (“NG 911”).⁶ *See* Petition at 5. E911 expenses, which the 911 Department projects to be \$36,786,426 for FY 2012, are approximately 60 percent higher than the actual FY 2011 expenditures of \$22,917,085. *See* Exhibit A. E911 expenses include: (1) Map Data; (2) E911 Support; (3) NG 911 consultant expenses; and (4) Massachusetts Broadband Institute (“MBI”) expenses. *See* Exhibit A. As discussed below, the DTC determines that the 911 Department’s projected E911 expenses of \$36,786,426 for FY 2012 are, or will be prudently incurred.

The first subcategory within the E911 category of expenses is Map Data. The 911 Department has an interdepartmental service agreement with MassGIS (a department within the Commonwealth’s Information Technology Division) in which MassGIS provides updated, synchronized mapping data and information to the 911 Department for use by the PSAPs. *See* Petition at 5. The 911 Department projects \$2,311,849 in Map Data expenses in FY 2012, an increase of approximately 106 percent over the \$1,118,966 spent on Map Data in FY 2011. *See* Exhibit A. The 911 Department explains that this significantly increased expense reflects the

⁶ “Next Generation 911” is an enhanced 911 system that incorporates the handling of all 911 calls and messages, including those using IP-enabled services or other advanced communication technologies in the infrastructure of the 911 system itself. *See* G. L. c. 6A, § 18A.

additional dedicated MassGIS resources needed to support the 911 Department as it prepares for the implementation of NG 911. *See* Petition at 5. The DTC finds that the increase in Map Data expense is necessary as an additional part of the ongoing NG 911 project, and is therefore prudently incurred.

The second and largest subcategory within the E911 category of expenses is E911 Support. For FY 2012, the 911 Department projects \$23,628,166 in E911 Support expenses, an increase of approximately 11 percent over FY 2011's expenses of \$21,209,110. *See* Exhibit A. This amount is based on a contract between the 911 Department and Verizon for network, database, customer premises equipment, and maintenance services. *See* Petition at 6. Because the E911 Support expenses are contractual and necessary to fulfilling the 911 Department's statutory obligations in provisioning E911 and disability access programs, the DTC determines that they are, or will be, prudently incurred.

The next subcategory of expenses is for the NG 911 consultant. The 911 Department has projected \$450,000 in NG911 consultant expenses for FY 2012. *See* Exhibit A. On October 31, 2011, the 911 Department entered into a Statement of Work for Phase II of the NG 911 project with RCC Consultants. *See* Petition at 6. Under this contract, RCC is required to provide deliverables to the 911 Department "including detailed specifications for inclusion in a draft Request for Response for the procurement of a Next Generation 911 emergency communications system." *Id.* A Request for Response ("RFR") is the next step in completing the NG 911 project, and as such, the DTC determines that the FY 2012 projected expenses for the NG 911 consultants are necessary to provisioning E911. Accordingly, the DTC finds that these expenses are, or will be, prudently incurred.

The final subcategory are expenses related to the MBI project. As the 911 Department explains “[a] key part of Next Generation 911 is the network infrastructure that is made up of high speed, fully redundant IP links.” *See* Petition at 6. This expenditure represents a joint partnership with the 911 Department and the MBI “to provide high speed fiber optic connectivity to 53 PSAPs located within parts of western and central Massachusetts [...] which are considered unserved or underserved as it relates to broadband service.” *Id.* The 911 Department has projected \$1,971,645 in expenditures for FY 2012 for this project, which “is expected to be delivered at a substantial savings over commercial offerings.” *Id.* Because this project is necessary to implement NG 911, and because it is undertaken in partnership with another public entity, the DTC determines that this expense is, or will be prudently incurred.

(d) Disability Access Programs

The fourth and final category of projected expenses is for Disability Access Programs, which include Telecommunication Relay Service (“TRS”), the Equipment Distribution Program (“EDP”), and Captioned Telephone Service (“CapTel”). For FY 2012, the 911 Department projects \$5,250,000 in Disability Access Programs expenses. *See* Exhibit A. Pursuant to G. L. c. 166, § 15E, local exchange carriers must provide relay services and specialized equipment distribution programs for disabled persons. Prudently incurred expenses associated with the provision of disability access programs are recovered through the surcharge. The DTC finds that expenses associated with these programs are, or will be, prudently incurred.

TRS provides individuals with hearing or speech impairments the ability to communicate using voice over wire or radio, in a manner functionally equivalent to a person without such impairments. *2010 Order* at 20. TRS is provided in the Commonwealth through a contract with

Hamilton Relay Services. *See* Petition at 7. The projected \$3,250,000 in TRS expenses is based on the terms of the Hamilton Relay Services contract and historical spending data. *Id.* The DTC determines that TRS service is necessary to the provision of E911 and disability access programs and is based on a DTC-approved contract for services. Therefore, the DTC finds that the FY 2012 TRS expenses are, or will be, prudently incurred.

The EDP provides Massachusetts residents with a permanent disability access to the telephone network in their homes.⁷ The 911 Department contracts with various equipment vendors to provide specialized customer premises equipment (“SCPE”) that is distributed by the EDP to persons with disabilities. *See* Petition at 7. The projected \$1,200,000 in EDP expenses is based on these contracts with SCPE vendors and historical spending data. *Id.* The DTC determines that the FY 2012 projected expenses for EDP service is necessary to the provision of E911 and disability access programs, and therefore are, or will be, prudently incurred.

CapTel is a relatively new service being offered to Massachusetts residents, pursuant to G. L. c. 166, § 15. CapTel allows persons with a hearing disability, but who retain some residual hearing, to read captions of what a caller is saying while simultaneously listening to that caller. *2010 Order* at 21. For FY 2012, the 911 Department projects \$800,000 in CapTel expenses, a significant decrease from the \$2,000,000 FY 2011 projection. *See* Exhibit A. This large decrease is due to the fact that CapTel service began in August of 2010, during FY 2011. *See 2011 Order* at 23-24. The \$800,000 budgeted for FY 2012 reflects the 911 Department’s more accurate projection of actual program expenses after the first full year of providing service. The

⁷ Executive Office of Public Safety and Security, Massachusetts Equipment Distribution Program, http://www.mass.gov/?pageID=eopsterminal&L=3&L0=Home&L1=Public+Safety+Agencies&L2=Massachusetts+Equipment+Distribution+Program&sid=Eeops&b=terminalcontent&f=medp_Welcome&csid=Eeops.

911 Department reports that to date they have distributed SCPE to 114 customers of CapTel service. *See* Petition at 7. The DTC determines that the 911 Department's projected expenses are necessary to the provisioning of E911 and disability access programs, and necessary to meet its statutory obligations under G. L. c. 166, § 15, and thus are, or will be, prudently incurred.

B. STABILITY OF THE SURCHARGE

The DTC believes the condition of the Fund is stable and that in the long-term the surcharge should remain stable. The Fund begins FY 2012 with a healthy balance of \$97,658,820. *See* Exhibit A. This balance is roughly \$15.2 million larger than the beginning FY 2011 balance. *Id.* Given the proposed FY 2012 expenditures, roughly \$41 million over projected revenues, the Fund balance should be capable of maintaining the surcharge in the near term. *See* Exhibit B.

Going forward, the 911 Department has submitted a reasonable forecast demonstrating the ability to maintain a stable surcharge, and positive, though declining, Fund balance through FY 2016. *Id.* The DTC notes that making predictions of the surcharge's sustainability is complicated by the fact that the 911 Department will not have accurate knowledge of the true cost to implement the NG 911 project until the end of the RFR process. The DTC is encouraged, however, by the 911 Department's reporting that "based on estimates received from its Next Generation 911 consultant, that the one-time implementation cost will be approximately \$40,000,000." *See* DTC 1-10. If this forecast remains accurate, the 911 Department will be able to complete the NG 911 project by the fourth quarter of FY 2016 as planned. The DTC additionally notes that the 911 Department is effectively managing its budget by adjusting program expenditures to accommodate for increased NG 911 spending within the existing

surcharge. *See* Exhibit B. The DTC is encouraged by the 911 Department's efforts to provide an accurate and reasonable budget forecast evidencing their ability to effectively maintain the surcharge, preserve the Fund and provide superior emergency communication services. Moreover, for the immediate future, the Fund's condition is strong, and therefore, the surcharge is stable.

III. ORDER

Accordingly, after due consideration, the DTC:

APPROVES the 911 Department FY 2012 expenditures; and,

ACCEPTS the 911 Department petition as satisfying the requirements of G. L. c. 6A, § 18H(b) to file an annual report on the financial condition of the Enhanced 911 Fund.

By Order of the DTC,

/s/Geoffrey G. Why
Geoffrey G. Why
Commissioner

RIGHT OF APPEAL

Appeals of any final decision, order or ruling of the Department of Telecommunications and Cable may be brought pursuant to applicable federal and state laws, including G. L. c. 25, § 5, and G. L. c. 166A, § 2.